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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,164	08/01/2003	Anthony G. Micele JR.	J-3782	1885
28165	7590	12/16/2004	EXAMINER TON, ANABEL	
S.C. JOHNSON & SON, INC. 1525 HOWE STREET RACINE, WI 53403-2236			ART UNIT 2875	PAPER NUMBER

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/632,164

Applicant(s)

MICELE ET AL.

Examiner

Anabel M Ton

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>07/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carpenter et al and further in view of Exhibit 13 as presented by applicant.
3. Carpenter discloses a decorated luminary product comprising: a candle; a candle holder containing said candle, said candle holder having an inner surface and an outer surface; and a web of a heat shrunk polymer encasing the outer surface of said candle holder, said web including a decorative feature, and the heat shrunk polymer with augment any surface features (e.g. Fillets, flutes or the like) of a candle holder (col. 9 lines 8-16); the decorative feature of said web is located so as to cooperate with light emitted by said candle in said candle holder to augment a visual effect when said candle is lit, a candle holder selected from the group consisting of chimneys, globes and jars, containing said candle, said candle holder having an inner surface and an outer surface; and a web of a heat shrunk polymer encasing said candle holder, said web including a decorative feature; a combustible material', a glass jar containing said combustible material, said combustible material having been poured into said glass jar, said glass jar having an inner surface and an outer surface; and a wick extending through said

combustible material. Carpenter does not specifically recite the inner and outer surface of the candleholder as having a hammered texture.

4. Exhibit 13 as presented by applicant discloses a candleholder with a hammered texture inside and out. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the candle holder with a hammered texture inside and out because as taught by Carpenter such candle holders with structurally non smooth outer features would only be further enhanced by the decorative film as taught by applicant. Furthermore, inherently, the interior of the hammered candleholder would only further enhance light emitted by a lit candle since irregular textures in materials surrounding light sources are old and well known in the art to cause distinctive light effects such as diffusing or refracting emitted light.

- Said candle comprises a plurality of colors; (Carpenter)
- Said candle includes an active material; (Carpenter)
- Said active material is selected from the group consisting of fragrances, air fresheners, deodorizers, odor eliminators, malodor counteract ants, insecticides, insect repellants, medicinal substances, disinfectants, sanitizers, mood enhancers and aroma-therapy compositions; (Carpenter)
- The decorative feature of said web includes one of a thermo chromatic ink and a phosphorescent ink; (Carpenter)
- Web is applied onto said candleholder such that wrinkles and bubbles are formed in said web. (Carpenter)

Art Unit: 2875

- With regards to the web exhibiting birefringence, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the web to exhibit birefringence since birefringence is a quality exhibited by the material being used for the web when manufacturing the web. (see Asakura et al)

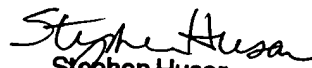
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anabel M Ton
Examiner
Art Unit 2875

AMT


Stephen Husar
Primary Examiner